

Message Text

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ORIGIN EA-12

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DRAFTED BY EA/J:H A COCHRAN:EH
APPROVED BY EA/J:N PLATT
L/EA:EVERVILLE

-----098508 241106Z /23

R 232329Z MAY 78
FM SECSTATE WASHDC
TO AMEMBASSY TOKYO

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E.O. 11652:N/A

TAGS: CVIS, CASC, ETRD, JA,US

SUBJECT: GERWIRTZ VISA CASE

REF: MEMORANDUM, SHAPIRO-SHOESMITH, JULY 15, 1977

1. SUMMARY. AFTER MONTHS OF INFORMAL QUERIES, EA/J MAY 18 CALLED IN JAPANESE EMBASSY OFFICER TO MAKE STRONG FORMAL DEMARCHE FOR IMMEDIATE ISSUANCE OF VISA TO MILLBANK, TWEED LAWYER GEWIRTZ. WE HAVE RECEIVED NO REPLY AS YET, BUT GEWIRTZ HAS RECEIVED TEMPORARY VISA FOR CONSULTATIONS IN TOKYO. END SUMMARY.

2. BACKGROUND. EMBASSY IS AWARE OF SEVERAL PROBLEMS CREATED BY GOJ FOR OPERATIONS OF TOKYO OFFICE OF NEW YORK LAW FIRM MILLBANK, TWEED, HADLEY, AND MCCLOY. THE FIRM OPENED A TOKYO OFFICE IN 1977 AFTER RECEIVING APPROVALS FROM THE MINISTRY OF FOREIGN AFFAIRS, THE MINISTRY OF JUSTICE. LIMITED OFFICIAL USE

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TICE AND THE BANK OF JAPAN. HOWEVER, UNDER PRESSURE FROM LOCAL BAR ASSOCIATIONS, THE MINISTRY OF JUSTICE HAS REFUSED TO ISSUE A COMMERCIAL VISA TO ELLIOT GEWIRTZ, A MILLBANK TWEED STAFFER WHO APPLIED ON FEBRUARY 22, 1978 AT THE JAPANESE CONSULATE GENERAL IN NEW YORK. GEWIRTZ IS SCHEDULED TO REPLACE AN EMPLOYEE OF THE FIRM WHO IS CURRENTLY IN TOKYO AND HOPES TO LEAVE AT THE END OF MAY. DEPART-

MENT OFFICERS HAVE MADE NUMEROUS INFORMAL INQUIRIES OF THE JAPANESE EMBASSY IN AN EFFORT TO MOVE THE CASE ALONG. MOST RECENTLY WE URGED JAPANESE EMBASSY TO SEEK GOJ ISSUANCE OF VISA AFTER SENATOR JAVITS WROTE TO ASSISTANT SECRETARY HOLBROOKE (COPIES SENT BY JAVITS TO AMB. MANSFIELD AND AMB. TOGO) EXPRESSING DISMAY THAT US FIRMS AND CITIZENS SHOULD BE SUBJECTED TO THIS SORT OF TREATMENT. NO REPLY WAS RECEIVED FROM THE GOJ.

3. ON MAY 17, FORMER DEFENSE SECRETARY JOHN J. MCCLOY, A PARTNER OF THE FIRM, RAISED WITH SECRETARY VANCE THE PROBLEMS FACING FOREIGN LAWYERS IN JAPAN IN GENERAL AND THE SPECIFIC PROBLEM HIS FIRM HAS HAD IN GETTING A COMMERCIAL VISA FOR GEWIRTZ.

4. ON MAY 18 EA/J COUNTRY DIRECTOR PLATT CALLED IN JAPANESE EMBASSY JUSTICE DEPARTMENT REPRESENTATIVE HARADA TO REGISTER FORMALLY DEEP CONCERN OF USG OVER DELAY IN ISSUING GEWIRTZ VISA, AND TO REQUEST IMMEDIATE ISSUANCE. PLATT SAID THAT DELAY IN GEWIRTZ CASE FURTHERED IMPRESSIONS GAINED IN OTHER ASPECTS OF US-JAPAN ECONOMIC RELATIONS THAT OPPORTUNITIES LESS OPEN TO AMERICANS IN JAPANESE MARKET THAN TO JAPANESE IN THE UNITED STATES. THE TREATMENT OF GEWIRTZ WAS UNFAIR, AND PARTICULARLY UNFORTUNATE LIMITED OFFICIAL USE

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IN VIEW OF THE ENORMOUS TRADE IMBALANCE AND THE STRESS LAID ON EQUALITY OF OPPORTUNITY IN RECENT NEGOTIATIONS. DELAY LOOKED TO AMERICANS LIKE ANOTHER ADMINISTRATIVE BARRIER THROWN IN THE WAY OF LEGITIMATE BUSINESS PURSUITS. POLITICALLY, PLATT CONTINUED, US LAWYERS HAD BEEN STAUNCH BACKERS OF THE US-JAPAN RELATIONSHIP FROM THE BEGINNING. HE NOTED THAT MR. MCCLOY HAD PERSONALLY HELPED JAPANESE BUSINESSMEN AND ATTORNEYS IN NEW YORK DURING DIFFICULT TIMES IN THE EARLY NINETEEN FIFTIES. SINCE THEN STRONG TIES HAD GROWN UP BETWEEN THE LEGAL COMMUNITIES WHICH HAD BECOME AN IMPORTANT INGREDIENT OF THE US-JAPAN RELATIONSHIP AS A WHOLE. TO THREATEN THE LINKS BETWEEN LEGAL COMMUNITIES FOR PAROCHIAL REASONS SEEMED SHORT-SIGHTED IN THE EXTREME. PLATT TOLD HARADA THAT THE CASE HAD BEEN BROUGHT TO THE ATTENTION OF SECRETARY VANCE AND THAT WE INTENDED TO FOLLOW UP CLOSELY AND AT HIGHER LEVELS IF NEED BE.

5. QUERIED AS TO THE BASIS FOR NOT ISSUING VISA, HARADA REPLIED THAT SOME BAR ASSOCIATIONS IN TOKYO HAD ASSERTED THAT THE MILLBANK TWEED OFFICE WAS ILLEGAL UNDER ART. 72 OF THE JAPANESE ATTORNEY'S LAW. ASSOCIATIONS PARTICULARLY

UPSET THAT SHAPIRO HAD HUNG OUT MILLBANK TWEED SHINGLE,

IMPLYING POSSIBILITY THAT FIRM WAS PRACTICING JAPANESE LAW.
PLATT RESPONDED THAT ANY ISSUE BETWEEN MILLBANK AND TWEED
AND BAR ASSOCIATIONS SHOULD BE ADJUDICATED BY DUE PROCESS
IN JAPAN. ARBITRARY ADMINISTRATIVE ACTION BY GOVERNMENT
MINISTRY IN REFUSING TO ISSUE VISA WAS NO SOLUTION, BUT
SIMPLY COMPLICATED PROBLEM.

6. HARADA SAID HE WOULD SEND A REPORT OF THE MEETING TO
TOKYO AND WOULD INFORM US OF GOJ REPLY. HE NOTED THAT GOJ
MAY 17 HAD AGREED TO REQUEST BY GEWIRTZ FOR TOURIST VISA
TO ENABLE HIM TO CONSULT MILLBANK TWEED IN TOKYO, BUT THAT
VISA WAS RESTRICTED TO ONE ENTRY, WITH A ONE WEEK PERIOD
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OF STAY.

7. EA/J HAS INFORMED MILLBANK TWEED IN NEW YORK OF EX-
CHANGE" CHRISTOPHER

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